IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.8138 OF 2005

Gorakh Vitthal Kuthwad & Anr. ...Applicants
Versus
State of Maharashtra ...Respondent

Mr.Anilkumar Patil, for the Applicant.
Mr.S.S.Tatkare, A.P.P for the Respondent.

CRIMINAL APPLICATION NO. 8267 OF 2005

Bhushan Nagraj Deore ...Applicant
Versus
State of Maharashtra ...Respondent

Mr.Filji Frederick, for the Applicant.
Mr.R.Y.Mirza, A.P.P. for the Respondent.

CORAM : S.C. DHARMADHIKARI, J.
DATE : DECEMBER 22, 2005.

P.C.:

. In Criminal Application No.8138/2005, Mr.Patil does not press for relief in favour of the first applicant - Gorakh Vitthal Kuthwad. However, he submits that as far as applicant No.2 - Tukaram Rao is concerned he has not been named by the complainant as assailant who have assaulted him with hockey-sticks, pipe or with fist blows.

2. In all fairness, Mr.Mirza appearing for the respondent hands over copy of the statement of the

injured-complainant Gangadhar Damodar Burkule recorded on 29th November, 2005. The said statement is recorded after the Doctor certified that the injured is fit to give his statement. By perusal of the said statement, it is clear that the complainant has named the first applicant, his sons Santosh and Deepak as having assaulted him with chains, hockey-sticks and wooden stick. As far as the other applicant is concerned, it is alleged that he has damaged household articles and the vehicle.

3. In the light of this, as far as the second applicant is concerned, no role is attributed to him in the act of assault on the complainant. He, therefore, deserves to be enlarged on bail in the event of his arrest in the subject C.R.. Accordingly, following order :

i) Applicant No.2 - Tukaram Genu Rao in the event of his arrest in Crime No.380/2005 registered at Ambad Police Station, Nasik shall be enlarged on bail in the sum of Rs.10,000/- with one surety in the like amount.

ii) Applicant shall report to Ambad Police Station, Nasik once in a fortnight as well as whenever summoned.

iii) Bail is granted subject to the condition that applicant shall not directly make any inducement, threat or promise to any person acquainted with the facts of accusation against him so as to dissuade him from disclosing such facts to the Court or to the police officer/investigating agency. Applicant shall not tamper with the prosecution evidence.

iv) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

v) This order will enure to the benefit of the applicant only till charge sheet is filed. Thereafter he will be free to apply to the appropriate court for appropriate relief.

vi) Application disposed of in above terms.

vii) The parties to act upon an authenticated copy of this order.

4. Mr. Patil on taking instructions from the applicants, including applicant No.1 who is present in Court, makes a statement that he will surrender at Ambad Police Station, Nasik on or before 26th December, 2005. In the light of this undertaking given by applicant No.1, who is personally present in the Court, he shall not be arrested till 26th December, 2005.

5. Criminal Application No.8267/2005 is also arising out of the same C.R. and considering that the applicant therein being not named in the act of assault, but, was carrying some articles such as hockey-stick and chain, he deserves identical terms. And therefore, the same relief is granted, as per above terms.

(S.C.DHARMADHIKARI,J.)